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Intellectual Ammunition

a publication of The Heartland Institute

Potshots

Romanticism is the notion that we can take the unreliability of appearances as a license to pretend that reality is whatever we choose to make it. Leftist romanticism is the notion that government can make reality conform to our visions.

Thomas Sowell

Professed concern about safety is little more than a Trojan Horse for tyrants and their useful idiot accomplices, allowing them to control our lives.

Walter Williams

We knew the boat was gonna sink. But who could've anticipated, "Luke . . . I am your father"?

Why *Star Wars* is better than *Titanic*

Lawyers Give Poor Free Legal Advice

Newspaper headline

We know that communication is a problem, but the company is not going to discuss it with the employees.

Corporate memo

I have two choices. I can distribute poverty or I can distribute wealth.

Chinese Premier Deng Xiaoping

What great cause would have been fought and won under the banner "I stand for consensus"?

Margaret Thatcher

Mental Health Mandates in Ohio and Beyond

James A. Damask

State legislatures, including Ohio's, have increasingly sought to regulate health care, especially with respect to mental health benefits following the passage of the federal Mental Health Parity Act of 1996. Often these regulations have come in the form of mandates, which compel insurance companies to provide certain benefits, and to guarantee issuance and renewal of policies. In 41 benefit areas alone, the number of state mandates across the U.S. increased from 35 in 1970 to 860 in 1996.

The Economics of Mandates

Mandates imposed by government redistribute real resources. The cost of this redistribution is ultimately paid by the insured. Since most insured Americans are covered by employer-provided policies, mandated benefits are most often paid for in the form of reduced wages, fewer benefits, or higher insurance premiums.

According to many economists, workers view wages and benefits as substitutes. As the cost of benefits increases, workers may choose to receive wages instead by changing jobs. Similarly, employers may restrict wage increases if health care benefits are mandated.

Economist Jonathan Gruber of the Massachusetts Institute of Technology has found, for example, that wages are on average 5.4 percent lower for women in states that have mandated insurance coverage for maternity compared to states without that mandate.

Two economists with the federal Agency for Health Care Policy and Research found that even as more employers offered health benefits, the percentage of employees choosing health benefits fell, from 88.3 percent in 1987 to 80.1 percent in 1996. They attributed the decline largely to health insurance premium increases.

Mandates have a significant effect on insurance premium costs. Gruber reports that mandates account for 22 percent of premium costs in Virginia and Maryland and 18 percent in Massachusetts. He finds that the additional cost of adding a mental health mandate ranges from 4.2 percent to 7.8 percent.

Who Benefits, Who Pays?

Robert J. Franciosi, Melinda L. Ogle, and Michael K. Block, researchers at the Arizona-based Goldwater Institute, conclude that "the actual beneficiaries from [a mental health parity mandate] would probably be a small group of high-cost users. According to most studies of those who use mental health care, these users would likely be educated, high-income,

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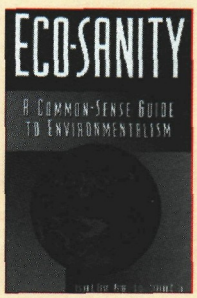

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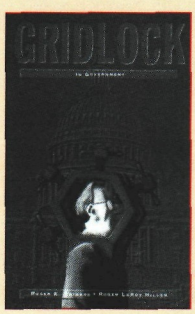

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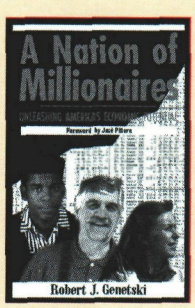

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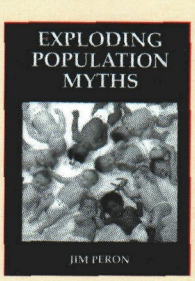

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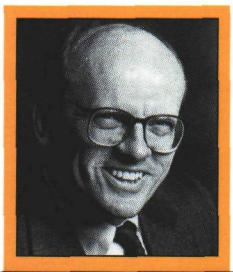

News from the Heartland

by Dan Miller
Senior Vice President

Poor Dan Quayle.

Media reports of numerous gaffes by the former Vice President of the United States and former U.S. Senator from Indiana made him the laughing stock of the nation during the 1988 presidential election. Remember potatoe?

Today, Quayle is running for the Republican nomination for President. A decade has passed, but nearly every news story about Quayle is annotated by accounts of past gaffes and bumbling.

So things should be looking pretty bleak for Vice President Al Gore, right? Gore, after all, has been caught making similar bloopers. Ah, but this time it's different.

The Media Research Center (www.mediaresearch.org) has documented some of Mr. Gore's most astonishing gaffes. Since they so seldom appear in the press, I will share some of them with you here.

January 17, 1993: During a tour of Monticello, Mr. Gore inquired about a row of marble busts: "Who are these people?" One was George Washington; another, Ben Franklin.

January 6, 1994: During a Milwaukee speech praising the city's diverse ethnic base, Mr. Gore said America "can be e *pluribus unum*. Out of one, many."

October 28, 1994: Mr. Gore attacked supporters of Oliver North's U.S. Senate bid as "the extreme right wing, the extra chromosome right wing." The extra chromosome is the source of Down's Syndrome.

November 1994: The November 28 *New Yorker* magazine quoted from letters Mr. Gore sent his father in the 1960s, saying anti-communism was a "form of psychological ailment—in this case a national madness," leading the U.S. into "supporting fascist totalitarian regimes in the name of fighting totalitarianism. . . . For me, the best example of all is the U.S. Army."

July 3, 1996: Mr. Gore told tobacco farmers, "I want you to know that with my own hands, all my life, I put in the plant beds and transferred it. I've hoed it, I've dug in it. I've sprayed it. I've chopped it. I've shredded it, spiked it, put it in the barn and stripped it and sold it." During his speech to the Democratic Party's national convention the next month, he claimed that his sister's death in 1984 spurred him to wage war on the tobacco industry.

December 1997: Mr. Gore told *Time* magazine that he and Tipper were the inspiration for Erich Segal's novel, *Love Story*, a contention Mr. Segal denied.

June 15, 1998: Mr. Gore said enthusiastically to Chicago Bulls fans, "That Michael Jackson is unbelievable, isn't he?"

September 4, 1998: Mr. Gore, who had already claimed to have "invented the Internet," told a steelworker that "he, too, has trouble turning on a computer, let alone using one."

March 16, 1999: Mr. Gore claimed in Iowa that he was a farm boy who plowed steep hillsides with mules.

While the national newspapers, magazines, and networks don't particularly like Mr. Gore, they do like his politics. And therefore, Mr. Gore is unlikely to come in for the kind of ridicule that continues to be routine coverage for Mr. Quayle.

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continued from page 1

middle-aged, white, and female. Children are also high-cost users."

Those who would likely be *hurt* by a mental health parity mandate have dramatically different demographics. William S. Custers, an associate professor in the Department of Risk Management and Insurance Research at Georgia State University, notes that "[t]he two groups most likely to reduce their purchase of health insurance are . . . those whose family incomes are low and those whose risks of needing health care services are low."

The beneficiaries of a mental health parity mandate would likely be well-educated and high-income. But the price would be paid by low-income wage earners, who tend to be the first to lose or drop their health insurance coverage as premiums increase.

Researchers at Brigham and Women's Hospital and the Harvard School of Public Health found that those losing their insurance were much more likely to have incomes under $15,000 and less than a high school education. Furthermore, their research also shows that following the loss of their health insurance, these individuals were more likely to delay medical care within four months after visiting an emergency department, were more likely to report no primary care provider, and were less likely to have recommended follow-up care within the four-month period. "Loss of insurance was also associated with a lower likelihood of vaccine use and check-ups in the prior year," notes their study. "A loss or change of insurance in the prior year has a measurable effect on access to health."

In the early 1990s, 16 states enacted widespread insurance regulations aimed at increasing access to health care. According to researchers from the Galen Institute, the number of uninsured increased in those states 25.6 percent from 1990 to 1996. The remaining 34 states saw the number of uninsured increase 7.2 percent over that period. In the 16 high-regulation states, the number of persons with individual health insurance fell, as did the number of persons with employer-based insurance. The number of persons covered by Medicaid increased.

The Galen Institute report found that after Ohio enacted guaranteed renewal and guaranteed issue provisions, limits on pre-existing condition exclusions, and certain rate restrictions, the number of uninsured in the state increased 297,000 from 1989 to 1996.

Loss of Insurance Under Mental Health Parity

If a mental health parity mandate caused a "low" premium increase (defined as 3.1 percent), between 30,100 and 45,100 Ohioans might lose or drop their health insurance coverage. Under a high premium increase (defined as 7.9 percent), between 79,700 and 119,600 might lose or drop their coverage.

The estimate of how many Ohioans would lose their health insurance is based on two primary factors: first, how many Ohioans are exempted from state mandates under federal ERISA regulation; and second, how sensitive employees are to price changes in health care premiums. If employees are even more price-sensitive for mental health coverage than is assumed in this report, then the number of Ohioans who drop their health insurance coverage will be even higher than estimated above.

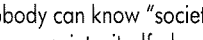
Parting Comments

Admittedly, such cost-benefit analysis has its limitations. It cannot give any estimate of a social "benefit" (such as that from mental health parity legislation) for several reasons:

- To speak of a societal "benefit" presupposes a collective choice by "society." However, nobody can know "society's" preferences, because society itself does not have preferences; individuals do, and individuals do not chose with unanimity.
- The preferences of individuals cannot be objectively measured because no common index exists by which to do so. Adam's demonstrated preference for more health care instead of more wages, for instance, cannot be objectively measured against Bob's demonstrated preference for more wages instead of more health care. All one may say is that, in the marketplace of voluntary exchange, Adam prefers more health care to more wages, while Bob prefers more wages to more health care. These preferences cannot be added together or subtracted from one another.
- Moreover, political action by elected representatives simply cannot substitute for market decisions made by individuals. Political decisions, unlike market transactions, are nonconsensual.

If a mental health mandate were enacted in the Buckeye State, insurance premiums could increase between 3.1 and 7.9 percent. As many as 119,600 Ohioans could either lose or drop their health insurance.

Cost-benefit analysis does, however, allow us to estimate the impact of a mandate on premium costs and, ultimately, on the number of people covered by health insurance. If a mental health mandate ("parity legislation") were enacted in the Buckeye State, a significant number of Ohioans would either lose or drop their health insurance coverage. If premiums increased just 3.1 percent, a low estimate, between 30,100 and 45,100 Ohioans would either lose or drop their employer-provided health insurance. If premiums were to increase by as much as 7.9 percent, between 79,700 and 119,600 Ohioans could either lose or drop their health insurance.



James A. Damask is director of research at The Buckeye Institute, a Dayton, Ohio-based think tank. This article is derived from "Mental Health Meddling: The Effects of Mental Health Parity Legislation in Ohio." To obtain copies of the entire policy brief, contact the Institute at 131 North Ludlow Street #317, Dayton, OH 45402; 937/224-8352; www.buckeyeinstitute.org.

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Crime

Morgan Reynolds & H. Sterling Burnett

Morgan O. Reynolds and H. Sterling Burnett are policy analysts for the Dallas-based National Center for Policy Analysis.

New Gun Controls Miss the Mark

In the emotional aftermath of Littleton, the U.S. Senate decided to "act now, think later" with the Juvenile Accountability Act. It gave the House of Representatives the opportunity to take bragging rights as the more thoughtful, reflective body in Congress.

The gun controls in the Senate's 648-page bill might be worth considering—if they were likely to prevent future school shootings. None of the proposed rules, however, would have prevented the massacre in Colorado, nor can they prevent future incidents. Indeed, some of the provisions would *reduce* public safety by making guns less accessible in times of need.

Gun locks—a false hope

Take the gun lock provisions. Most handguns are already sold with trigger or barrel locks. The legislation would make these mandatory for new sales. But the federal government cannot require anyone to actually *use* such locks. Gun locks are easy to defeat, and killers like Eric Harris and Dylan Klebold would have known how to do so. Further, Harris and Klebold did most of their killing with shotguns, which are not covered by the bill.

Won't locks save the lives of young children, though? Very unlikely. Of 3,000 accidental deaths of children under age 5 each year, 40 are due to gun accidents. This is certainly a real cost of gun ownership. Yet with 70 to 80 million people owning an estimated 240 million guns, gun owners have a remarkable safety record. By comparison, 40 children under age 5 drown in water buckets at home, 50 die by poisoning, and 150 die from fires they start with cigarette lighters.

Gun locks diminish the defensive value of guns. Unlocking and loading a gun in a darkened bedroom in the middle of the night is difficult—especially under criminal assault. Guns are used about five times more often to stop crimes than to commit crimes. Locks that result in more dead kids (and adults) rather than fewer are surely not what the provisions intend.

Gun shows not the problem

And gun shows? Contrary to charges, they are not a loophole for illegal gun sales. Since most vendors at gun shows are federally licensed dealers, federal, state, and local laws, including the national instant background check, already apply. As for private sales at shows, the background check was never intended to apply to private individuals who sell a gun, whether such swaps occur at a gun show or elsewhere.

Will the new gun show restrictions reduce criminal access to guns? No, because gun shows are not a serious source for supplying criminals with guns.

- A mid-1980s survey of convicted felons in 12 state prisons found that fewer than 1 percent obtained guns at gun shows.
- A 1997 Justice Department study found only 2 percent of the guns used in crimes were obtained from shows, including purchases by so-called straw men. Criminals usually obtain guns through black-market deals and theft. Further, none of the recent school shootings involved guns illegally purchased at gun shows. Juvenile offenders in several of the shootings broke into locked cabinets or safes to get their weapons. And in Littleton, Klebold and Harris obtained one gun through an illegal black-market purchase and got the other guns from a girlfriend. She bought the guns at a show, but no background check would have disqualified her purchase.

Nor would a proposed three-day waiting period have stopped any of the school shootings. The Colorado tragedy was planned more than a year in advance, and the guns in other school shootings were stolen, borrowed, or brought from home.

None of the gun controls in the Senate's 648-page bill would have prevented the massacre in Colorado, nor can they prevent future incidents. Indeed, some of the provisions would reduce public safety by making guns less accessible in times of need.

In some instances, a waiting period can give people time to cool off before they resort to violence. However, this theoretical benefit must be weighed against documented cases of stalked persons assaulted and sometimes killed because a waiting period stopped them from promptly obtaining a gun for self-defense. The Brady Law's five-day waiting period had no detectable effect on murders and robberies. Rapes and aggravated assaults increased thereafter, though, according to the only available study on the issue. Apparently, the net effect of waiting periods is to make citizens more vulnerable to crime.

In weighing new gun controls, the people's representatives should adopt the Hippocratic oath, "Firstly, do no harm."

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Would New Requirements for Gun Buyers Save Lives?
Sarah Brady and John R. Lott Jr. square off over background checks and safety locks. (Insight, June 1999, 4pp.)

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Education

George Clowes

George Clowes is managing editor of *School Reform News*, a monthly newspaper published by The Heartland Institute.

More Growth Ahead for Home Schooling

Twenty years ago, home schooling was illegal almost everywhere in the United States. It became legal in all 50 states only as recently as 1993.

Yet for the past decade and a half, home schooling has been one of the fastest-growing segments of the K-12 education industry, with a growth rate between 15 and 20 percent a year. Next year, the growth rate could be even higher, according to a recent account in *The Christian Science Monitor*, because of a surge of parent interest in alternative methods of schooling following the massacre of 13 students at Columbine High School in Littleton, Colorado.

The Columbine incident, coupled with other recent mass killings by students at supposedly safe suburban schools, apparently has sharply raised the concerns of many parents about the safety of their students' public school environment.

> *Students who are taught at home by their parents score significantly higher than their public school peers.*

An estimated 1.5 million children are being educated at home this year. (By contrast, more than 50 million students are enrolled in public and private schools.) Not surprisingly, safety is one of a half-dozen reasons parents give for making the decision to home-school, according to Brian D. Ray, president of the National Home Education Research Institute. He cites the following factors:

- teaching a particular set of values and beliefs
- higher academic performance
- individualized instruction
- closer family relationships
- better interaction with peers and adults
- safer environment

The most important of these reasons is the first—parents' desire to teach and transmit specific values and beliefs to their children and to provide them with a particular view of the world. This clearly is driven by dissatisfaction with the learning environment found in public schools.

In an August 1996 poll of 696 home schoolers, conducted by the Florida Department of Education, 42 percent of respondents reported that dissatisfaction with safety, drugs, and adverse peer pressure at public schools was their reason for establishing a home education program.

But do parents make good teachers? Is instruction from a certified teacher required to elicit high academic performance from students?

Students who are taught at home by their parents score significantly higher than their public school peers, according to a new study of 20,760 home-schooled students conducted by Lawrence M. Rudner, director of the Educational Resources Information Clearinghouse on Assessment and Evaluation at the University of Maryland.

> *Home schooling is one of the fastest-growing segments of the K-12 education industry. An estimated 1.5 million children are being educated at home this year.*

The March 1999 study, sponsored by the Home School Legal Defense Association, showed that test scores for home-schooled students fall between the 75th and 85th percentile. This compares very favorably with public school test scores, at the 50th percentile, and private school test scores, ranging from the 65th to the 75th percentile.

Rudner's peer-reviewed study, *Scholastic Achievement and Demographic Characteristics of Home School Students in 1998*, shows that having at least one parent who is a certified teacher has no significant effect on the achievement levels of home-schooled students. However, the children of college graduates outperform children whose parents do not have a college degree. This finding contrasts with one from an earlier study, which concluded that the parents' educational level was not a significant factor in the performance of a home-schooled child. (See "Home Schools Outperform Public Schools," *School Reform News*, May 1997.)

But Rudner points out that, at every grade level, "the mean performance of home school students whose parents do not have a college degree is much higher than the mean performance of students in public schools." Even without a college degree, parents who home-school their children produce student test scores in the 65th to 69th percentile range, comparable to the level achieved in private schools.

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Why the Government Education Monopoly Will Come Tumbling Down
Arguments against home schooling are invalid. (Free Congress Foundation, February 1999, 8pp.)

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Environment

Jonathan H. Adler

Jonathan H. Adler is senior director of environmental policy at the Competitive Enterprise Institute in Washington, DC.

An Environmental Tax Cut

The economic and social benefits of repealing the estate tax are well-known. Repeal would spur investment, and make it easier for heirs to carry on the small family-owned business or farm.

But ending the "death tax" has a lesser-known benefit: It would be a boon for environmental conservation.

At present, the tax is applied to wealth transfers that occur at the time of death. The entire estate of the deceased, including undeveloped land, is taxed at a rate of up to 55 percent. A base portion of the estate—currently $625,000—is exempt.

Repealing the estate tax would remove a powerful economic incentive to develop land and thereby liquidate natural resources. For countless rural Americans who are "land-rich and cash-poor," subdividing or developing the inherited land is the only way they can afford to pay the estate tax.

Consider that while the average tree farm has a book value of $2 million or more, the average annual household income for a tree farmer is under $50,000. When a tree farmer dies, there is simply no way for his family to pay the estate tax without clearing timber or selling off land.

Promoting habitat destruction

"It is often economic hardship that results in more intense land uses being considered by landowners," notes Dennis "Duke" Hammond, a biological scientist with the Florida Game and Fresh Water Fish Commission, who is concerned about the effect the estate tax has on endangered species habitat. According to Hammond, "if estate taxes were not assessed by the government, thousands of privately owned acres of land would be protected from development."

The estate tax imposes a significant burden on landowners who wish to maintain land in an undeveloped state from generation to generation. Larger species, like the Florida panther, are particularly vulnerable because they depend on large, uninterrupted swaths of habitat. A single panther's range can be as large as 450 square miles. It does not, therefore, take a lot of development to put the larger species at risk.

According to wildlife experts in Florida, the estate tax is a major threat to species survival in the state. There are only 30 to 50 panthers left in Florida, and their habitat is dwindling. "[P]anthers cannot continue to exist if these private lands do not continue to support panthers as they currently are," says Hammond.

Hammond is not alone in recognizing the destructiveness of the estate tax. Many conservation groups, such as the Izaak Walton League, support killing the death tax. Even groups that don't support all-out repeal recognize that the current tax is "anti-environmental." As wildlife specialist Michael Bean of the Environmental Defense Fund observes, the estate tax is "highly regressive in the sense that it encourages the destruction of ecologically important land in private ownership."

More regulation not the answer

Some environmental activists conclude that the solution lies in designing new regulations or new loopholes, complicating an already-arcane tax code. One proposal is to give estate tax relief—but only to those who pledge the land to conservation. Yet many landowners are reluctant to place easements on their land that would permanently restrict its future use.

Federal tax law already provides numerous loopholes that enable estate planners to protect assets, by creating trusts or placing conservation easements on eligible land. Even so, the estate tax has a devastating impact on many species. Rather than tinker with the tax code further, Congress should repeal the estate tax altogether. That is the surest way to stop the destruction of wildlife habitat encouraged by the present confiscatory tax.

> *"If estate taxes were not assessed by the government, thousands of privately owned acres of land would be protected from development."*
>
> *Dennis "Duke" Hammond*
> *Florida Game and Fresh Water Fish Commission*

For too long policymakers have labored under the assumption that the only way to enhance environmental protection is to enact and then enforce more and more federal rules and regulations. We forget that existing federal laws are often part of the problem. Before imposing new regulatory requirements on private landowners, we should first identify and eliminate those existing policies that encourage the destruction of habitat. Killing the death tax would be a good place to start.

Editor's note: See page 15 for a review of the economic effects of the estate tax.

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The Roney Land and Cattle Company
Private ownership is compatible with sound land management. Here is one example. (Competitive Enterprise Institute, February 1998, 21pp.)

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Health Care

Twila Brase, RN, PHN

Public health nurse
Twila Brase is president of Citizens' Council on Health Care.

Free the MSA

The health insurance industry is a mess. Premiums are skyrocketing, the number of people covered by insurance is falling, and even those with insurance are not guaranteed access to health care, as evidenced by HMO horror stories. Not surprisingly, politicians and employers face public discontent.

The federal tax code is at the heart of our current health care challenges: restraining cost inflation, insuring the uninsured, enhancing quality of care, and improving patient access. The tax-free Medical Savings Account (MSA) is a powerful answer. Yet advocates of single-payer plans, HMOs, and government officials, fearing loss of either profit or control, have done their best to discredit the idea.

The MSA is a relatively simple concept based on the idea of saving for anticipated medical expenses. The employer purchases a high-deductible catastrophic health insurance plan and an MSA for the employee. The employer uses pre-tax dollars to pay for the inexpensive insurance premium and deposits the money saved—still pretax—in the employee's MSA. Those dollars are then used as needed by the employee.

The federal tax code is at the heart of our current health care challenges. The tax-free Medical Savings Account (MSA) is a powerful answer.

Those who fear high deductibles under such an arrangement should take heart. In any given year, few people find themselves faced with expensive medical costs. By the time most people incur a major health expense, they will have more than enough in their MSA to pay the deductible.

Health economists Gail A. Jensen and Robert J. Morlock in a 1989 survey of one million individuals in large (and typically generous) self-insured plans found that 89 percent filed claims for less than $2,000, 73 percent filed claims for less than $500, and one-third filed *no* claims at all.

Who controls your money?

The one question consumers should be asking is, "Who should control my health care money? Me or my health plan?" Many employees have yet to realize that health care benefits are income—wages they could receive in cold hard cash to use as investments, and a means to take control over their health care purchases.

A tax-sheltered medical fund is a golden opportunity to prepare for short- and long-term health care expenses. A single $1,000 contribution held for 40 years at 9 percent interest will grow to $30,000. HMOs despise these accounts, and it's no wonder. They want for themselves the investment potential that rightly belongs to the individual.

According to John C. Goodman and Gerald L. Musgrave, who cowrote a National Center for Policy Analysis report, "The Economic Case for Medical Savings Accounts," "[e]ach dollar of premium an employer spends on third-party insurance for the employee avoids a 28 percent income tax, a 15.3 percent FICA (Social Security) tax and a 4, 5, or 6 percent state and local income tax, depending on where the individual lives.

"On the other hand, if the employer attempts to deposit that same dollar in a savings account so that the employee can pay medical bills directly, the tax authorities confiscate almost half the money before it is deposited and tax any interest income the deposit generates."

Medical Savings Accounts bring the tax-savings *directly* to the employee, the self-employed, and eventually, even the unemployed. Money in a Medical Savings Account is tax-free going in, tax-free while compounding interest, and tax-free coming out. The MSA is portable and owned by the individual, not the employer.

Liberalization needed

MSAs have yet to catch on, in part due to financial and other restrictions imposed by law. They are operating as a four-year demonstration project with a limited market. At present, MSAs are available only to the self-employed and employees of small organizations, with a nationwide limit of 750,000 individuals or groups. There is little incentive for insurance companies and agents to offer or market a product to a small pool that can be expanded only through a political decision.

Furthermore, the full amount of the deductible cannot be contributed to the MSA, leaving a small out-of-pocket gap before the deductible is reached, further reducing the MSA's attractiveness. Some in Congress suggest permitting 100 percent of the deductible to be contributed and making the tax-free accounts permanent and available to everyone.

The underlying cause of our health care financing woes lies primarily in the entrenchment of third-party payer involvement, bureaucracy, and waste. The solution is a return to the individual ownership, individual responsibility, and individual decision-making embodied in the Medical Savings Account. Congress cannot afford to look the other way any longer.

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Medical Savings Accounts: Obstacles to Their Growth
How can medical savings accounts be made more effective? (National Center for Policy Analysis, July 1998, 16pp.)

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Law

Robert L. Woodson

Robert L. Woodson Sr. is the founder and president of the National Center for Neighborhood Enterprise.

Making Common Sense Commonplace in Governance

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How Public Policies Undermine the Rules for Getting Rich

Law and policy hinders opportunity for all. (Center for the Study of American Business, April 1999, 16pp.)

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Clint Bolick's *Transformation: The Promise and Politics of Empowerment* has emerged as a must-read publication.

Bolick describes, in convincing, vivid detail, how a 30-year agenda of liberal policies and programs instituted in the name of the poor has kicked out the bottom rungs of their ladder to upward mobility—namely, enterprise and education. To aid these victims of the War on Poverty, Bolick prescribes an agenda of empowerment that includes removing obstacles to opportunities and equipping the poor with the tools they need to pursue their goals.

Bolick criticizes the practice, common among Republican politicians, of "preemptive capitulation." "Too often," he explains, "Republicans and conservatives respond not with principled opposition or deregulatory alternatives, but with scaled-down versions of welfare-state schemes." Minorities who are conservative find few champions of principle on the Right, and those on the Left will prefer authentic liberal policies to the watered-down version that many Republicans offer.

Bolick describes the lonely battle that low-income people are waging to reclaim their basic rights to self-determination and the pursuit of happiness, in education, enterprise, and community empowerment. Each of these vignettes should function as a wake-up call to the Right to recognize a fact they have yet to fully comprehend: The principles and values that courageous low-income men and women struggle to uphold are supposedly the foundation of a conservative agenda. The story of their quest for freedom and self-sufficiency should function as a powerful symbol, conveying the essence of the conservative philosophy and goals to the American people. In the words of Michael Joyce, "Their stories should be our stories!"

Real stories, not abstractions

I applaud Bolick for his effectiveness in translating fundamental "empowerment philosophy" into very real and convincing accounts of personal struggles.

- Rather than arguing abstractly for deregulation of businesses, Bolick gives a portrait of fledgling entrepreneurs in cities throughout the nation who, because of regulatory barriers, are forced to "go underground" with promising enterprises that serve their communities' needs.
- Rather than arguing against the autocratic rule of the public education system, he portrays low-income families who cut corners and make sacrifices to open the door to educational excellence for their children through independent schools that have elicited stellar academic performance from students who had failed in public schools.
- And, rather than arguing against the protectionism of the Davis-Bacon Act, which secures the domain of skilled union labor, demanding that virtually all construction companies with government contracts pay union-designated wages and negating competition from less-skilled low-income workers, Bolick relates the following saga:

Several years ago, a young black man approached the president of an electric company that was performing work at a San Francisco public housing development, asking for a job. As one of the company's staff recalls, "The president of the company explained that Davis-Bacon required high prevailing wages, and he couldn't afford to take a chance on an unskilled person with no job history." The young man came back two days later offering to work for less money. "I won't tell the law," the employee remembers him saying, "I mean, I'm a drug dealer and I just want out of it. I want to make a better life for me and my mom and for my little sisters and brothers, and I think you guys offer it to me."

Bolick's policy recommendations are infused with passion, urgency, and undeniable common sense. He should command the attention of any policymaker or candidate who has an authentic desire to effectively address the problems of urban America.

But the president couldn't, the employee lamented, and "two days later that young man was shot and died. Maybe we couldn't have prevented that. But maybe we could have."

Such accounts are powerful because they emerge from personal experience. Bolick has stood by the heroes of his stories in court: the innovative low-income entrepreneurs, the parents striving to provide their sons and daughters with a substantive education, and the young men seeking to turn their lives around through positive, productive employment.

This first-hand experience infuses Bolick's policy recommendations with passion, urgency, and undeniable common sense. He should command the attention of any policymaker or candidate who has an authentic desire to effectively address the problems of urban America which, slowly and steadily, are permeating our entire nation.

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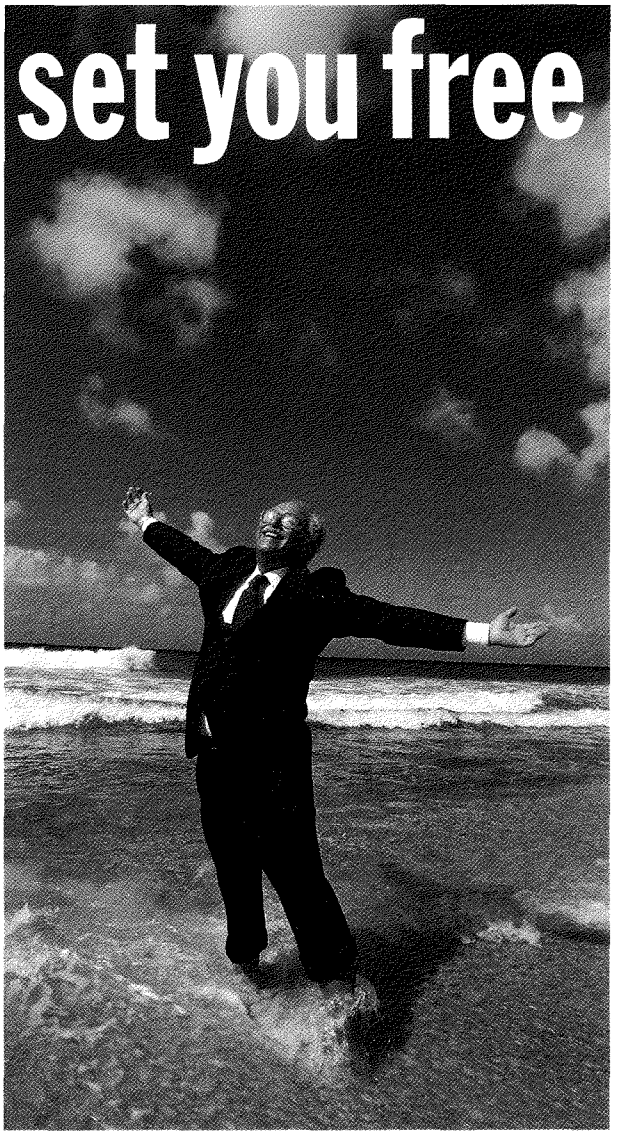
The truth will set you free



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Privatization

Adrian Moore

Adrian Moore is director of economic studies for the Reason Public Policy Institute.

Kiss Your Balanced Budget Goodbye

On June 30, a barely noticed edict from a little-known private organization revolutionized government finance. Not many yet realize it, but starting in 2001 the fight in most state and local governments to balance the budgets enters a whole new era.

Starting that year, all state and local governments with annual revenues over $100 million will have to change their accounting and financial reporting systems to be much more like those employed by private firms. Smaller governments needn't comply until 2003. The new system requires government budgets to include assets and liabilities, and to conform to accrual accounting. The result? Many budgets that balance today would not balance under the new rules. Scott Jensen, speaker of the Wisconsin Assembly, estimates the state's current balanced budget proposal would be $600 million in the red under the new accounting standards.

The changes to come are likely to be immense. Our current government financial management standards discourage maintenance of equipment and facilities, encourage year-end spending sprees, and pass liabilities off on future generations so that public officials can spend today. In short, they do not specify accountability.

That is about to change, thanks to new standards for state and local government accounting issued by the Government Accounting Standards Board (GASB). GASB standards largely determine generally accepted accounting practices (GAAP), one of the tools used by credit rating agencies and others to determine the creditworthiness of a government. Many government entities, including states, cities, counties, school boards, and special districts, are required by law or charter to comply with GAAP.

The changes

The new standards require state and local governments to use accrual accounting rather than the current cash accounting system. The difference is that the old system does not account for assets and liabilities. If a government owes settlement payments for a lawsuit or debt payment, only the annual payment shows up in the books, not the total amount owed. Likewise, if the city owns some prime real estate or shiny new snow-clearing equipment, those don't appear on the books as assets. No wonder elected officials have a difficult time making sound financial decisions—their own books don't tell the whole story. The new standards will change that.

Of course, no silver lining comes without its cloud. It will cost money to implement the new standards and accounting methods. The largest expense will be inventorying and placing a value on all government-owned assets. That means buildings, vehicles, machinery, roads, utility plants, and many more items state and local governments may not even know they own.

Implications

For state legislators, governors, mayors, and other government leaders, the new standards mean dramatic changes in the budget wars. It will be more difficult to use financial slight-of-hand to balance a budget. It will be imperative to focus on core missions and develop efficient ways to deliver services.

> *Starting in 2001, new standards will require state and local governments to conform to accrual accounting; their budgets will have to include assets and liabilities. The fight to balance the budgets will enter a whole new era.*

Just as important, it means our elected officials will be able to understand their own financial statements. They will be less reliant on agency heads to explain their true budget needs, and less dependent on the press to uncover financial mismanagement. The new system also makes much more clear the true costs of government services, and easier to make comparisons to private service delivery.

We can get a preview of what these reforms might mean by looking at New Zealand. After a major overhaul in the early 1990s, New Zealand's entire government financial management system is now run like a private company. The results have been amazing. Since 1992, the government has run a small budget surplus, net debt has been cut in half, growth in public expenditure has flattened, and the unit cost of delivering government services has fallen—meaning they have become more efficient. Best of all, after an initial period of resistance, even the bureaucrats learned to love the new system.

Government officials here may come to love our new system as well, and may eventually be hungry for more. They may find the new accounting standards set by GASB a springboard for systematic steps to implement other, more ambitious, financial management reforms.

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Reforming Financial Management in the Public Sector

New Zealand has already switched to accrual accounting and budgeting. (Reason Public Policy Institute, May 1999, 42pp.)

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Regulation

Murray Weidenbaum

Murray Weidenbaum is chairman of the Center for the Study of American Business.

The Case against a New "Social Accountability" Code

The voluntary adoption of industry codes or standards, such as the recent quality standard ISO 9000, has a long and honorable history. However, a new effort to impose a "social accountability" standard on private companies is a fundamental departure from the constructive codes previously developed under the International Standards Organization.

The proposed code, SA8000 (SA for social accountability) is a barely disguised attempt by unions and allied interest groups to substitute a new version of regulation for traditional private decision-making.

Developed by the self-appointed Council on Economic Priorities Accreditation Agency (CEPAA), SA8000 is being sold as a way for companies to demonstrate they are socially accountable, by pledging to adhere to a new code of labor relations. Under the proposal, the company adhering to SA8000 would not be accountable for its performance under the code to shareholders or to the public at large—but to labor unions and a variety of special-interest groups (the so-called non-governmental organizations, or NGOs).

SA8000 would set stringent labor standards and provide for tough monitoring by auditors certified by CEPAA. Oversight responsibility would pass to unions and NGOs, with shareholders as mere bystanders. SA8000 was developed with the help of union leaders and auditing and certification firms who saw the possibility of a new market for their services.

Although the concept of social accountability may be high-minded, the specific approach taken under SA8000 is quite high-handed. For example, it requires that companies seeking certification as socially accountable not only pledge to abide by the standard, but also to contractually bind their suppliers and subcontractors to do so.

Moreover, SA8000 gives unions much greater powers than they now enjoy under the National Labor Relations Act. Under the proposed standard, union leaders are guaranteed access to their members in the workplace, with management providing the meeting rooms upon request. In addition, employers must extend collective bargaining rights to supervisors and managers.

A company choosing to be certified under SA8000 would have to pledge to restrict many traditional management prerogatives. Overtime would be voluntary except for unusual and unexpected circumstances, such as delay caused by a national disaster. Overtime must always be paid at a premium rate and the total work week must never exceed 60 hours per employee.

Companies would be required to provide a minimum wage far higher than statutory minimums. It must be sufficient to meet what are described as employees' "basic needs" plus the provision of some discretionary income. Auditors reviewing a company's compensation standards are instructed to compare the target company's wages with those at a unionized firm—or to ask local unions and NGOs whether a worker's wages are sufficient to meet "basic needs." Where companies are found to violate this fuzzy standard, they will be asked to develop goals and timetables for reaching acceptable levels. (Does this remind you of affirmative action?)

A company wishing to be certified must make its facilities available for external review and pledge to remedy any "deficiencies" found by the CEPAA-certified auditors. The company that fails to do so may face decertification. SA8000 thus gives extraordinary leverage to private interest groups and unions with a vested interest in finding problems at an employer's facility, whether to generate publicity for themselves or create support for an organizing drive among employees.

The Council on Economic Priorities Accreditation Agency, which seems to be so offended by standard business practices, nevertheless has established a procedure apparently designed to maximize its revenues from its apparently idealistic standard-monitoring activity. Each company must pay $15,000 just to apply for accreditation, and pay an additional $5,000 every three years to renew its status. The auditors it selects must pay $1,400 per person per day to have CEPAA assessment staff observe them during an actual audit, plus $800 in per-diem travel expenses for a full day. CEPAA is also looking to auditing firms for cash: They must pay CEPAA a royalty fee amounting to 1.5 percent of annual revenue from their work on SA8000.

Although the concept of social accountability may be high-minded, the specific approach taken under SA8000 is quite high-handed.

Apparently, second-guessing business can be a good business.

Of course, business can avoid being caught up in this privately sponsored form of arbitrary regulation if they remember the Nancy Reagan approach to drug use: "Just say no."

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Social Regulations as Trade Barriers
Well-sounding regulations impede trade and economic growth. (Brookings Review, Winter 1998, 4pp.)

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Taxes

Bill Ahern

Bill Ahern is communications director for the Tax Foundation.

Universal Service Tax Hike Will Hit Low- and Middle-Income

Almost three-quarters of the FCC's proposed tax hike on long-distance phone calls will fall on individuals with adjusted gross incomes of less than $75,000, and the bulk of that will hit individuals making less than $25,000.

The rate hike was proposed on May 5 by Federal Communications Commission Chairman William Kennard. Revenue from the existing tax is supposed to be used to buy hardware that will allow the nation's schools and libraries to take advantage of the Internet.

"If the FCC board approves the rate hike, the line item on your phone bill called 'universal service' or 'universal connectivity' will rise even if your local libraries and schools are already hooked up to the Internet," commented J.D. Foster PhD, executive director and chief economist for the Tax Foundation.

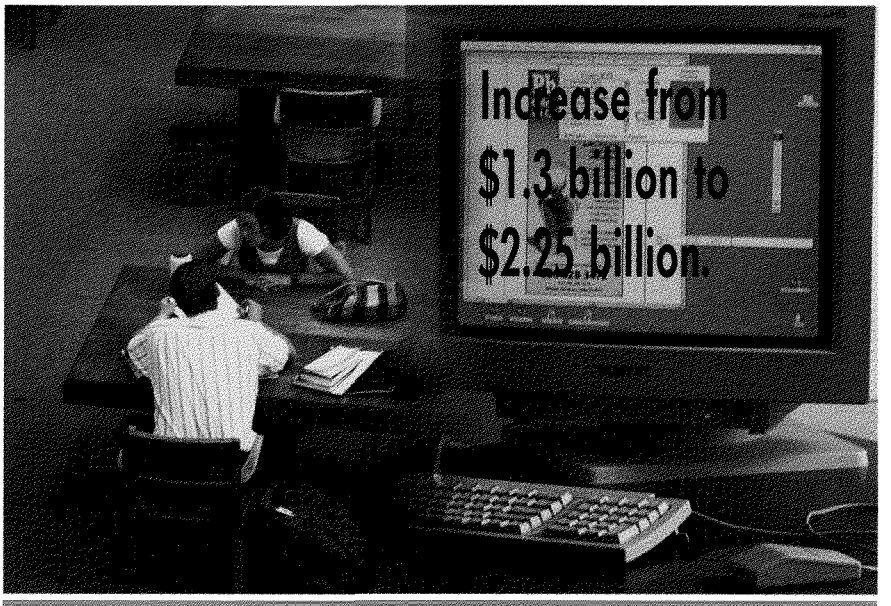
Individuals in the under-$25,000 income bracket bear 32.5 percent of the tax and would pay an additional $308.4 million. People in the $25,000 to $50,000 range pay 25.6 percent of the tax and would have to pay $243.2 million more. People making $50,000 to $75,000 pay 16.1 percent of the tax and would pay $153.1 million more.

People in the top four income ranges would also pay more in taxes, but their share of the increased tax burden is significantly smaller. Combined, people in those four categories would pay just 26.0 percent of the increased tax burden.

Almost three-quarters of the FCC's proposed tax hike on long-distance phone calls will fall on individuals with adjusted gross incomes of less than $75,000.

"The regressive nature of this tax means that low- and moderate-income families are shouldering much of the cost of wiring the nation's schools and libraries to the Internet," pointed out Patrick Fleenor, the Tax Foundation's senior economist.

Under Kennard's proposal, "universal service" taxes would rise from $1.3 billion last year to $2.25 billion this year.



"Universal Service" Taxes: Who Pays?

1998 Income Range (Adjusted Gross)	Collections (Millions)	Proposed Increase (Millions)	Proposed 1999 Total (Millions)	Percentage Paid
Less than $25K	$422.0	$308.4	$730.4	32.5%
$25K - $50K	332.8	243.2	576.0	25.6%
$50K - $75K	209.5	153.1	362.6	16.1%
$75K - $100K	106.8	78.1	184.9	8.2%
$100K - $200K	111.8	81.7	193.6	8.6%
$200K - $500K	53.4	39.0	92.4	4.1%
More than $500K	63.6	46.5	110.1	4.9%

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Taxing Talk: The Telephone Excise Tax
The federal excise tax on telephone service is regressive and unsustainable. (Institute for Research on the Economics of Taxation, February 1999, 14pp.)

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Welfare

Robert Rector & Sarah Youssef

Robert Rector is a policy analyst and Sarah Youssef is a research assistant at The Heritage Foundation.

What History Tells Us About Declining Caseloads

There has been considerable discussion concerning the causes of recent large reductions in AFDC-TANF caseloads. Some have attributed the drop in dependency to the strength of the economy. At first glance, that appears plausible. The changes in national caseload depicted in the chart below do seem to correspond with large-scale changes in the economy, rising during the recession of the early 1990s and falling during the economic recovery in the mid 1990s. There are definite problems, however, with that primarily economic explanation.

Historically, the link between economic cycles and changes in AFDC has been, at best, tenuous. Modest increases in AFDC caseloads have occurred during some, but not all, recessionary periods. By contrast, while the chart shows eight previous periods of economic expansion prior to the 1990s, AFDC caseloads stayed the same or even increased during growth periods. (AFDC caseloads did fall during the economic expansion of the Korean War, between the summer of 1950 and the summer of 1953; however, the decline was only 14 percent). In fact, all previous economic booms coincided either with flat caseloads or with substantial caseload growth (for example, the late 1960s and early 1970s).

In reality, as the chart makes abundantly clear, *no* sustained and significant declines in AFDC caseload occurred at any point before the mid-1990s. Thus, claims that the recent unprecedented drop in dependence has largely been caused by the current economic expansion are not consistent with the historical record.

Other analysts have attributed the recent declines in caseload to welfare reforms—specifically work-related policies. This explanation seems credible, since the magnitude of caseload decline (nearly 50 percent over five years) is far greater than in any prior period. Moreover, the rate of caseload decline varies enormously across the 50 states. If economic conditions are the main factor, then the variation in state reduction rates should be linked to variation in state economic conditions. On the other hand, if welfare polices are largely responsible for falling dependence, then the differences in reduction rates should be linked to specific state policies.

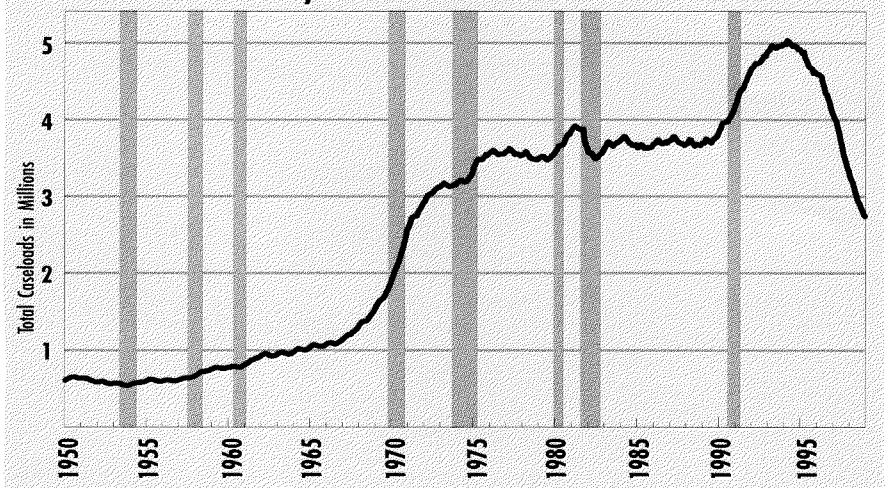
> *Policy reform—not a booming economy—has been the principal engine driving the decline in welfare dependence.*

In our analysis of the effect of economic factors versus welfare policies on falling caseloads between January 1997 and June 1998, we found that differences in state welfare policies, specifically stringency of sanctions and timing of work requirements, were highly successful in explaining rapid rates of caseload decline. By contrast, the relative vigor of state economies, as measured by unemployment rates, changes in unemployment, or state job growth, had no statistically significant effect on caseload decline.

To summarize: While the overall health of the U.S. economy has contributed to the reduction of welfare dependence, it has been neither a sufficient nor a primary factor. The huge state variations in the rate of caseload decline cannot be attributed to differences in state economic factors. They *can be* convincingly explained by differences in the rigor of work-related welfare reforms. Policy reform—not a booming economy—has been the principal engine driving the decline in welfare dependence.

U.S. Families Receiving AFDC/TANF

January 1950 to December 1998



Note: Shaded areas indicate recessions

Source: The Heritage Foundation, based on data from U.S. Department of Health and Human Services.

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The Determinants of Welfare Caseload Decline

A more detailed analysis is available in this publication. (The Heritage Foundation, May 1999, 11pp.)

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Federal Estate Taxes

An Egregious Undertaking

by Kerri Houston

Masquerading as a formula to make the rich pay their "fair share," current federal estate tax law leads to the demise of small businesses, family farms, and timberland, and to the elimination of jobs. Bearing the brunt of this dis-humor are average, hard-working Americans.

At best, the federal estate tax is a section of the tax code that does grievous societal damage—both economically and ethically—while providing minimal net revenue to the Treasury. At worst, it is an affront to what we purport to hold dearest in this country: entrepreneurial spirit, thrift, and preservation of family legacy. This statute has no reason to live.

No economic justification

The estate tax makes no sense on three distinct fronts. First, it makes no economic sense. Its fiscally destructive anti-growth consequences include both "trickle down" and "trickle up" effects.

Trickling upward are unemployment and possibly welfare rolls, as businesses are routinely closed and assets sold off in order to pay the tax. A potential decedent's expenses expand upward and away from savings and capital reinvestment as dollars are spent on attorneys, financial planners, and yes, even estate tax insurance.

The harmful downward trickle includes decreases in personal savings and cash, which are needed for capital formation, job creation, and technological innovation. Although not yet formally calculated, common economic sense dictates that the negative impact on ancillary businesses, particularly in small towns, is especially hurtful.

> *At worst, the federal estate tax is an affront to what we purport to hold dearest in this country: entrepreneurial spirit, thrift, and preservation of family legacy. This statute has no reason to live.*

Incredibly, upwards of 70 percent of family and closely held businesses do not survive to the next generation, according to the Center for the Study of Taxation. When you consider the impact of the trickle twins, it's easy to see why. Money is removed from a business at a time when it is needed the most: during transition.

Little impact on federal revenues

Second, the estate tax makes no sense to the Treasury. It provides just over 1 percent of all federal tax revenue—and that's before taking compliance costs into account. Estimates of compliance costs due to administration, collection, and litigation range from 65 cents on each dollar collected to almost one dollar—nearly a complete wash. And most of those numbers are based on static data. A dynamic analysis, which takes ripple effects into consideration, shows that if the tax were repealed today, the economic growth it would cause would generate, by the year 2010, enough new tax revenue to make up for the loss.

An immoral tax

Economics aside, perhaps the best argument against the death tax is the moral one. The estate tax is intentional, personal harm done to Americans. It takes the best of America and taxes it.

The IRS has no qualms about approaching the heirs of a hard-working farmer who has tilled the same land for 25 years, and demanding death tax ransom for the privilege of keeping that farm in the family. Although our farmer eked out an income of just $40,000 last year, he had the misfortune of purchasing the land a quarter-century ago. It is now worth $800,000, and Uncle Sam wants $56,500 of it. Now. Ironically, it is quite possible the farmer had never even heard of the estate tax.

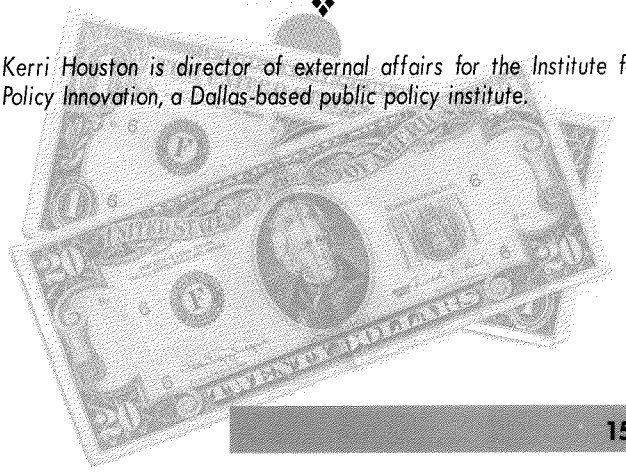
John Meagher of the House Ways and Means Committee stated the case for repeal clearly and eloquently: "The estate tax is immoral and dishonors the hard work of people who have passed on. Something is sacred about the fruits of your parents' labor: It is representative of what their life is all about. This tax violates the sanctity of their efforts, and the government should not take part of it."

The tax is no longer just a problem for the polo set. Post-WWII proliferation of small to medium businesses and escalation in real estate values, personal retirement plans, and life insurance policies have seen to that. The largest estates do not even bear the highest burden; medium-sized estates do, as more and more middle-class Americans rapidly reach the exemption limit of $650,000.

As originally conceived, the death tax was intended to be a once-in-a-lifetime event, levied on a few. But this tax policy has bad effects that reach well beyond "the rich." It's time to bury this arcane statute once and for all, before it wreaks even more collateral damage.

❖

Kerri Houston is director of external affairs for the Institute for Policy Innovation, a Dallas-based public policy institute.



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Excerpt

The Cost of Merger Delay in Restructuring Industries

by Robert Ekelund Jr. and Mark Thornton

On June 23, The Heartland Institute released Heartland Policy Study #90, "The Cost of Merger Delay in Restructuring Industries," by Auburn University economists Robert Ekelund Jr. and Mark Thornton. The 36-page report is available from The Heartland Institute for $10. It is also available on the World Wide Web at www.heartland.org.

Regulatory review of proposed mergers causes an average delay of 94 days in nonregulated industries and an additional 92 days in regulated industries. These delays are caused by a multiplicity of government agencies with review authority, the political nature of antitrust law enforcement, and the motives of competitors and firms being acquired. Because most mergers are efficient and socially beneficial, these delays cause social harms. The authors calculate that merger delays cost society over $12 billion in 1996.

1. Merger approval in regulated industries takes too long.

Analysis of a random sample of 553 mergers with values exceeding $150 million that occurred between January 1990 and December 1998, reveals that approval of mergers in regulated industries took an average of 92 days longer than mergers of comparable value in unregulated industries. This is 92 days in *addition* to an average delay for unregulated industries of 94 days, for a total average delay of some 186 days.

These delays are costly to consumers, workers, and investors. The direct costs of regulatory delay—in the form of compliance costs, lobbying, public relations, etc.—are substantial. Because they produce no useful goods or services, those expenditures are a pure deadweight loss to society. The indirect costs of regulatory delay—lost products, innovations, and efficiencies that would have come about had mergers been completed rather than crippled by premature publicity or canceled due to the threat or cost of regulatory interference—are much larger, but those costs are largely invisible.

The duration of merger delays is positively related to industry concentration and the size of the mergers, though neither factor had much effect on the length of review. Communications mergers are neither shorter nor longer than mergers in other regulated industries.

2. Delays are caused by the aggressive application of antitrust law, multiple jurisdictions with review authority, and "rent seeking."

Antitrust has undergone a century-long evolution from reactive moves against isolated cases of suspected monopoly abuse to a proactive policy that scrutinizes all corporate activity. State and municipal governments, which traditionally have not been parties to antitrust proceedings, have taken to using merger reviews to address consumer complaints regarding tree trimming, payphone charges, and even the choice of channels available on cable television.

When a merger depends on the approval of multiple regulatory bodies, costs and delays may be staggering. AT&T, for example, had to obtain about *1,000* approvals from local regulators following its merger with MCI, the cable network. As of February 1999, there were 28 municipal holdouts.

Delays may be more common in restructured industries because rivals in those industries have lower costs for engaging in activities that delay and sabotage competitive mergers due to their legal, legislative, and lobbying expertise. This sort of conduct, called "rent seeking" by economists, does not produce any social value, but merely shifts the benefits of a merger from the public to private interests.

Merger approval in regulated industries took about 92 days longer than mergers of comparable value in unregulated industries, for a total average delay of some 186 days. The cost of additional merger delay in regulated industries in 1996 was over $12 billion.

3. Enforcement of antitrust laws is unlikely to benefit consumers.

The historical record shows that antitrust policy originated to subvert competition and protect inefficient incumbent suppliers. This was true of the Sherman Antitrust Act of 1890, state-level antitrust laws passed before Sherman, and the Clayton Act of 1914. The view that antitrust law is a policy to protect the public interest and promote competition has lost credibility among experts and practitioners.

Public choice theory—the application of economics to collective decision-making—explains how antitrust policy is based on individual self-interest and that policies originate and are driven by interest-group politics. Once established, the interests of the antitrust bureaucracy—including the legislative, executive, and judicial branches of government—all influence antitrust policy.

Empirical data show that most complaints against mergers are filed by competitors of the merger partners, not public interest groups. When complaints were filed and legal action announced, the stock prices of those rivals *increased*, demonstrating that the proposed merger would have been competitive. While researchers have not ruled out the possibility that antitrust enforcement may have deterred some anti-competitive mergers, their results clearly indicate the more common outcome was protection of rival producers from increased competition due to efficient mergers.

4. Most mergers are efficient and create social benefits.

Mergers are an efficient response to the expansion of free trade and spread of market institutions worldwide following the collapse of com-

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munism. In the U.S., deregulation of domestic public utilities has created new national markets where only strictly regulated regional markets existed previously. And new technologies such as the Internet are creating new profit opportunities for firms able to capitalize on the convergence of communications, computer, and entertainment enterprises.

Mergers and acquisitions are particularly valuable in restructured markets such as airlines, banking, radio, telephone, television, natural gas, and electric power. Mergers can create new corporate entities large enough to enter new markets and compete with local and regional monopolies. The SBC/Ameritech merger, for example, would permit SBC to enter 30 markets beyond its traditional 13-state region, enabling it to offer local, long-distance, Internet, and high-speed data services to some 180 million people.

When a merger depends on the approval of multiple regulatory bodies, costs and delays may be staggering. AT&T had to obtain 1,000 approvals from local regulators following its merger with MCI, the cable network.

The domination of a market or industry by a small number of large firms is more often due to the relative efficiency of large firms compared to small firms, and not the result of collusion. Empirical tests of this statement have repeatedly shown that the profits of small firms do not rise with concentration, whereas the profits of large firms do rise. Even when competition appears to be missing, the potential of new firms entering the market often prevents firms from exercising their market power.

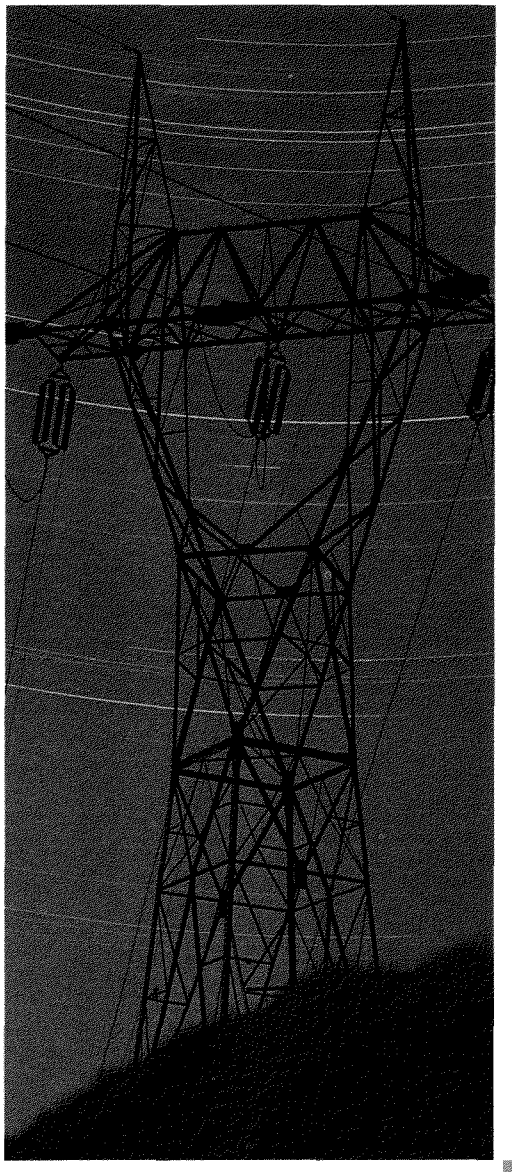
5. The cost of merger delay in restructuring industries is over $12 billion a year.

Since most mergers are economically efficient, merger delay imposes unnecessary costs on society. Since delays are longer in regulated industries, where the need for and benefits of mergers are greatest, the social costs of merger delay are likely to be considerable.

The premium paid by acquiring firms for the stock of target companies gives us a window through which to see the social cost of delayed mergers. Regulatory delays drive up such premiums by giving competitors the opportunity to bid for target firms, a practice the target firm may encourage. At the same time, delays reduce the likelihood that a merger will produce the value that investors and managers predicted by allowing competitors to get a head start on restructuring and other counter-tactics.

Ordinarily, the premiums paid by acquiring firms would be a good estimate of the social value created by mergers. Since regulatory delay increases the premium while diminishing the actual value created, measuring the difference in premiums paid for mergers between firms in regulated markets versus mergers in unregulated markets results in a measurement of the cost of delay to investors. If the merger is efficient, that cost will equal social cost.

The average premium paid for mergers in regulated industries in 1996 was 35.68 percent while the average premium for all mergers was 26.2 percent, a 9.48 percentage point difference. Using the value of mergers actually closed in 1996, the estimated cost due to the additional delay in regulated industries is $5.06 billion. Using the value offered in new merger announcements (this figure includes mergers that will subsequently be canceled), the estimated cost is $18.97 billion. If we average these two estimates, the cost of additional merger delay in regulated industries in 1996 was over $12 billion.



6. Several reforms would expedite the regulatory review process and benefit consumers, workers, and investors.

Our findings suggest the need for policy reform. Adoption of the following suggestions would reduce merger delays and the social costs they impose:

- Free small firms from the burden of filing merger notifications and having to lobby for permission to proceed by adjusting the reporting threshold for changes in stock market indexes.
- Raise to 50 percent of the national market the concentration level that triggers premerger review of multi-billion dollar mergers.
- Eliminate merger review authority for federal, state, and local regulatory bureaucracies other than the Federal Trade Commission and the Department of Justice.
- Establish clear and objective guidelines for merger review so that proposals can be written to meet those guidelines in advance of regulatory review.
- Establish a firm deadline for merger review that is less than 30 days, and require concurrent reviews by multiple jurisdictions so they are completed within the time period allowed.
- Hold annual Congressional hearings on the problem of merger delay to draw attention to its cost and to the interest-group politics that often lay behind such delays.

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Privacy on the Internet: The Best Policy Is No Policy at All

by Justin Matlick

In the debate over government's role on the Internet, online privacy is the latest issue to take center stage. Until recently, legislators have taken a hands-off approach, waiting for online businesses to self-regulate and alleviate privacy concerns on their own. But Washington's patience is waning, and the 106th Congress will likely consider an onslaught of regulations.

Web sites collect information in two ways: They ask visitors to fill out registration forms or they try to feed them "cookies." Cookies alone cannot divulge your name or address, but they can reveal how long you stay at a page, which products you like, and which sites you visit. Web sites monitor what attracts visitors and tailor themselves to various interests. If you give it to them, they sometimes sell your name to third parties, often to direct marketers who launch email solicitations, commonly known as "spam."

Children's privacy advocates argue that, if left unregulated, Web sites and online marketers will violate children's privacy. Several bills have been proposed that would impose what are commonly referred to as "mandatory opt-in" requirements. Such requirements call for Web sites to obtain an individual's explicit consent before collecting and distributing personal information.

In the debate over government's role on the Internet, online privacy is the latest issue to take center stage. An unregulated, free-market policy can and will accomplish what privacy regulation would not.

A more effective policy approach would avoid new regulations, relying instead on the market forces that are already driving businesses to regulate themselves. Regulation advocates claim the profit motive contradicts privacy interests, and therefore self-regulation can never work. They're wrong.

The goal of commercial Web sites is to attract customers—and, in some cases, their children. Because discriminating consumers won't patronize sites with policies they feel are unacceptable, sites must respond to their customers' privacy concerns. Otherwise, consumers will migrate to competing sites with privacy policies that reflect their preferences. Market forces are already working: The Online Privacy Alliance, whose members include Disney, the Direct Marketing Association, and Microsoft announced last year a program to certify and police Web sites that voluntarily comply with a standardized privacy policy.

This policy requires Web sites to allow their visitors to choose how their information is used and to opt-out when sites want to distribute personal information to third parties. It also prohibits sites from collecting a child's address or email address without prior parental consent; guarantees that its members will not allow children under 13 to post their addresses or other personal contact information in public forums; and prohibits sites from using games, prizes, or other activities to entice children into giving away unnecessary information.

Innovation, Not Regulation

New online privacy regulations will not protect children. But they will impose new costs that harm the Internet. An unregulated, free-market "policy," on the other hand, would accomplish what online privacy regulations cannot. Such a policy would:

- Allow Internet users to control and protect their information. Internet users already have the power to manage how their information is used and distributed. They can avoid sites that have unsatisfactory or unposted privacy policies, and they can set their browser to reject cookies. If Internet users relinquish information to a site with a posted policy, a contract has been formed. If the site then violates that policy, users can take legal action under existing contract law.
- Allow parents to protect the privacy of children. Markets are providing parents with mechanisms that regulations would not. Parents already have the means to protect the online privacy of their children. While regulations would not effectively protect children's privacy, they would create a false sense of security among parents.
- Avoid the costs of regulation while protecting electronic commerce. New online privacy regulations would impose direct costs on online businesses. These costs would limit the growth and variety of online commerce while eroding the entrepreneurial spirit that has been a driving force behind the Internet's growth.

An unregulated, free-market policy can and will accomplish what online privacy regulation would not. Internet users would have the means to protect their privacy, parents could protect their children's information, and Web sites would be free to innovate in response to the preferences of their visitors. Perhaps most important, the mechanisms that have driven the Internet's growth would be unharmed and left in place.

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Justin Matlick is director of the Center for Freedom in Technology at the Pacific Research Institute for Public Policy, a San Francisco think tank. This article is adapted from OnLine Privacy: Why New Regulations Fail to Protect Children, a January 1999 publication of the Pacific Research Institute for Public Policy.

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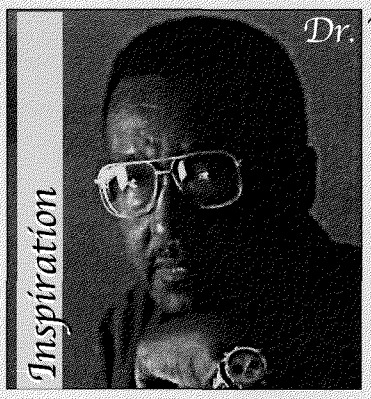
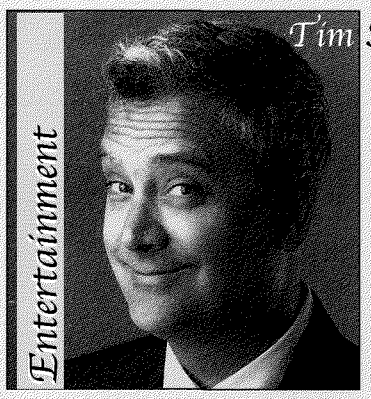


Dr. Walter E. Williams is a syndicated columnist and frequent guest host of The Rush Limbaugh Show. His 1982 book, *The State Against Blacks*, was made into a television documentary entitled "Good Intentions." His most recent book is *Do the Right Thing: The People's Economist Speaks.*



Tim Slagle "fights a never-ending battle for truth, liberty, and the American way," finding himself compared to Lenny Bruce and George Carlin along the way. According to the *Twin City Reader*, Slagle is a "droll, flag-burnin', politically incorrect satirist. Slagle's delivery is plenty polished; his arguments are more rational than most you'll hear on C-SPAN; and the punch lines are potent and abundant."

For Out-of-Town Guests

For the convenience of its out-of-town guests, Heartland has reserved a block of sleeping rooms at the Palmer House Hilton Hotel for the evening of Wednesday, October 6. Room rates are $165 single and double. To make hotel reservations, call the Palmer House Hilton Hotel directly at 312/726-7500, and indicate that you are with the Heartland Benefit.

Tables

Gold Tables, located closest to the speaker's platform, are available for $5,000 each. Guests receive special nametags and the tables are specially decorated. Gold Table sponsors are thanked from the podium and identified in the evening's program.

Silver Tables, located close to the speaker's platform but behind the Gold Tables, are available for $2,500. The tables have silver cloth highlights and special centerpieces, and guests receive nametags decorated with silver ribbons. Sponsors are thanked from the podium and identified in the evening's program.

There will be no head table at the event, allowing us to seat speakers and special guests at Gold and Silver Tables.

To reserve your Gold or Silver Table, call Heartland President Joseph L. Bast at 312/377-4000.

Tickets

Members: $70 before August 21; $80 after August 21
Nonmembers: $80 before August 21; $90 after August 21
Reserved table (10) $1,250
Order by phone by calling 312/377-4000.
Use your Visa, Master Card, or American Express Card.

The Heartland Institute's 15th Anniversary Benefit

October 6, 1999

The Heartland Institute will celebrate 15 years at the forefront of the free-market public policy parade on Wednesday, October 6, at the Palmer House Hilton Hotel in downtown Chicago. Renowned economist Dr. Walter Williams will keynote the 15th Anniversary Benefit Dinner, and libertarian comedian Tim Slagle will close the program.

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Law and Economics Center
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League of Private Property Voters
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Lincoln Legal Foundation
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National Right to Work Legal Defense Foundation
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New Coalition for Economic and Social Change
300 South Wacker Drive #601, Chicago, IL 60606, 312/427-1290, fax 312/427-1291

New England Legal Foundation
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The Oklahoma Council of Public Affairs was created in 1993 to formulate and promote public policy analysis consistent with the conservative principles of free enterprise, individual initiative, and limited government. Its primary areas of concern are economics, justice, education, culture and governance.

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